



I. PETITIONER IS ACTUALLY INNOCENT OF THE OFFENSES FOR WHICH HE WAS CONVICTED, AND HIS CLAIM IS THEREFORE NOT SUBJECT TO THE ONE-YEAR LIMITATION PERIOD UNDER 28 U.S.C. § 2244(d) OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996, Pub. L. No. 104-132, 110 Stat. 1214 (1996), Effective April 24, 1996.

A. PETITIONER'S CLAIM OF INNOCENCE IS BOTH PROCEDURAL AND SUBSTANTIVE, IMPLICATES A FUNDAMENTAL MISCARRIAGE OF JUSTICE, AND IS PREDICATED ON EVIDENCE NOT ADDUCED AT TRIAL COUPLED WITH A CONTENTION THAT BOTH HIS TRIAL AND APPELLATE COUNSEL RENDERED INEFFECTIVE ASSISTANCE IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

**AFFIDAVIT IN SUPPORT OF REQUEST  
FOR IN FORMA PAUPERIS STATUS**

In further support of this application, Petitioner Gilmore answers the following:

1. I have no spouse.
2. Aside from my prison work detail, I am not employed.
3. My last job was ~~W/A~~
4. In the last twelve (12) months I have received no money from any of the below sources:
  - a. Business, profession, or any form of self employment;
  - b. Rent payments, interest, or dividends;
  - c. Pension, annuities, or life insurance payments;
  - d. inheritance, or other sources such as welfare, social security, or unemployment. See Prison Certification Form attached for gifts.
5. I have the following amount of monies credited to my prison \_\_\_\_\_.
6. I have no checking accounts

7. I neither own nor have interest in real estate, stocks, bonds, notes, automobiles, or other valuables.

8. I have no persons dependent upon me.

9. No persons, businesses, or other organizations owe me money.

10. I have no average monthly expenses.

11. I expect no changes in income, expenses, assets or liabilities in the next twelve (12) months.

12. With the exception of copying and postage fees, I do not plan on paying anyone any money for services, including preparation and completion of this form, in connection with this appeal.

13. The only additional information I can provide that can be useful in determining this application at this time is the certified prison accounting statement/affidavit attached hereto.

I declare under penalty that the foregoing is true and correct, and that because of my poverty I am unable to pay the fees, cost, and security associated with this appeal, and that I am entitled to redress under United States law.  
28 U.S.C. § 1621.

|                        |           |                     |
|------------------------|-----------|---------------------|
| <u>Anthony Gilmore</u> | <u>27</u> | <u>331-70-1401</u>  |
| Signature              | Age       | Social Security No. |
| Anthony Gilmore        |           |                     |
| Inmate No. EB-8234     |           |                     |
| SCI ALBION             |           |                     |
| 10745 ROUTE 18         |           |                     |
| ALBION, PA 16475-0002  |           |                     |

IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

|                                    |   |                          |
|------------------------------------|---|--------------------------|
| ANTHONY GILMORE,                   | : | CIVIL DIVISION           |
| Petitioner                         | : |                          |
|                                    | : | Civil Action No. 04-358E |
| v.                                 | : | (M.D.Pa. No. )           |
|                                    | : |                          |
| MARILYN S. BROOKS, SUPERINTENDENT, | : |                          |
| STATE CORRECTIONAL INSTITUTE AT    | : |                          |
| ALBION,                            | : |                          |
| Respondent                         | : |                          |
| And                                | : |                          |
| BRADLEY FAULK, DISTRICT ATTORNEY   | : |                          |
| FOR ERIE COUNTY, PENNSYLVANIA, AND | : |                          |
| THOMAS CORBETT, ATTORNEY GENERAL   | : |                          |
| FOR PENNSYLVANIA,                  | : |                          |
| Additional Respondents             | : |                          |

**CERTIFICATE OF SERVICE**

I, Anthony Gilmore, hereby certify that on March 31, 2006, a copy of the foregoing Notice of Appeal and Application for Leave to Proceed In Forma Pauperis on Certificate of Appealability was served by placing same, first class postage prepaid, in the United States Mail addressed to:

RAQUEL L. CROSS, ESQUIRE, ADA  
OFFICE OF THE DISTRICT ATTORNEY  
ERIE COUNTY COURTHOUSE  
140 WEST 6th STREET  
ERIE, PA 16501

  
ANTHONY GILMORE

**CERTIFICATION**

I, Sandra L. Lorniak, hereby certify that the Applicant, Anthony Gilmore, Inmate No. ER-8234, an inmate confined here at the State Correctional Institute at Albion, Pennsylvania, has the sum total of \$63.54 on his prison account to his credit at this institution.

I further certify that the Applicant, James E. Holden, likewise has the following securities to his credit according to said institute's records. unknown

DATED March, 2006.

April 4, 2006

Sandra L. Lorniak  
Authorized Officer of  
the State Correctional  
Institute at Albion

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PA DEPT. OF CORRECTIONS  
BUREAU OF DATA PROCESSING  
REMOTE PRINT TIME 10:35

INMATE ACCOUNTS SYSTEM  
ACCOUNT STATEMENT

RUN TAS410  
DATE 4/04/2006  
PAGE 1

CURR. INST SCLAS  
ACCT. STATUS OPEN

| INMATE<br>NUMBER | NAME<br>LAST | FIRST   | MI | OLD BALANCE |
|------------------|--------------|---------|----|-------------|
| EB8234           | GILMORE      | ANTHONY |    | 15.71       |

| BATCH<br>#                          | DATE<br>MO DY YEAR | TRANSACTION DESCRIPTION                             | TRANSACTION<br>AMOUNT | BALANCE AFTER<br>TRANSACTION |
|-------------------------------------|--------------------|---|-----------------------|------------------------------|
| 2920                                | 02-14-2006         | 13 PERSONAL GIFT FROM<br>MARTINEZ, MILDRED H880805  | 50.00                 | 65.71                        |
| 2924                                | 02-14-2006         | 44 ORGANIZATIONAL<br>C.E.O. BAKE SALE               | -8.50                 | 57.21                        |
| 2992                                | 02-21-2006         | 37 POSTAGE  | -.24                  | 56.97                        |
| 8052                                | 02-21-2006         | 32 ALB COMMISSARY<br>FOR 2/21/2006                  | -38.98                | 17.99                        |
| 9055                                | 02-24-2006         | 10 INMATE EMPLOYMENT<br>ALB PAYROLL 2006 - 01 GRP 4 | 32.40                 | 50.39                        |
| 9055                                | 02-24-2006         | 10 INMATE EMPLOYMENT<br>ALB PAYROLL 2006 - 01 CRP 4 | 8.00                  | 58.39                        |
| 8059                                | 02-28-2006         | 32 ALB COMMISSARY<br>FOR 2/28/2006                  | -38.54                | 19.85                        |
| 8065                                | 03-06-2006         | 32 ALB COMMISSARY<br>FOR 3/06/2006                  | -7.06                 | 12.79                        |
| 3189                                | 03-13-2006         | 13 PERSONAL GIFT FROM<br>MARTINEZ, MILDRED H883127  | 50.00                 | 62.79                        |
| 3197                                | 03-13-2006         | 44 ORGANIZATIONAL<br>C.E.O. BAKE SALE               | -10.00                | 52.79                        |
| 8072                                | 03-13-2006         | 32 ALB COMMISSARY<br>FOR 3/13/2006                  | -25.50                | 27.29                        |
| 3219                                | 03-14-2006         | 13 PERSONAL GIFT FROM<br>MARTINEZ, MILDRED H880663  | 50.00                 | 77.29                        |
| 3283                                | 03-20-2006         | 37 POSTAGE  | -1.35                 | 75.94                        |
| 3283                                | 03-20-2006         | 37 POSTAGE  | -1.35                 | 74.59                        |
| 3283                                | 03-20-2006         | 37 POSTAGE  | -1.35                 | 73.24                        |
| 8079                                | 03-20-2006         | 32 ALB COMMISSARY<br>FOR 3/20/2006                  | -34.39                | 38.85                        |
| 9081                                | 03-22-2006         | 10 INMATE EMPLOYMENT<br>ALB PAYROLL 2006 - 02 GRP 4 | 32.40                 | 71.25                        |
| 9081                                | 03-22-2006         | 10 INMATE EMPLOYMENT<br>ALB PAYROLL 2006 - 02 GRP 4 | 8.38                  | 79.63                        |
| 8086                                | 03-27-2006         | 32 ALB COMMISSARY<br>FOR 3/27/2006                  | -16.09                | 63.54                        |
| NEW BALANCE AS OF 04-04-2006 -----> |                    |   |                       | 63.54                        |

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Anthony Gilmore  
Inmate No. EB-8234  
SCI ALBION  
10745 ROUTE 18  
ALBION, PA 16475-0002

March 31, 2006

Office of the Clerk  
U.S. District Court -  
Western District  
P.O. Box 1820  
Erie, PA 16507

RE: Anthony Gilmore v. Brooks, Superintendent,  
Civil Action No. 03-358 Erie

Dear Clerk:

Enclosed herewith and for filing with the Court in the above-entitled matter, please find the originals and three (3) copies of : (1) Petitioner Anthony Gilmore's Notice of Appeal from the final judgement entered in this action on March 27, 2006, and (2) Petitioner's Application for Leave to Proceed In Forma Pauperis on Petition for Certificate of Appealability. Copies have been served on Respondents and in the manner indicated by the Certificate of Service. Kindly file same.

Very truly yours, *Anthony Gilmore*

Anthony Gilmore, pro se

AG/cxg  
Enclosure

cc: Raquel L. Cross, Esquire, ADA  
File

Case Number 1:04-cv-35

Anthony Gilmore

EB-8234

SCI Albion

10745 Route 18

Albion, Pa. 16475-0002

United States District Court

Western District of Pennsylvania

U.S. Court House, Room A250

17 South Park Row

Erie, pa. 16501

October 28, 2007

Here are The Documents referenced as Appendix  
A, B, and C, That were not attached.

Sincerely Anthony Gilmore



IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

|                                    |   |                          |
|------------------------------------|---|--------------------------|
| ANTHONY GILMORE,                   | : | CIVIL DIVISION           |
| Plaintiff                          | : |                          |
|                                    | : |                          |
| v.                                 | : | Civil Action No. 04-358E |
|                                    | : | (M.D.Pa. No. )           |
|                                    | : |                          |
| MARILYN S. BROOKS, SUPERINTENDENT, | : |                          |
| STATE CORRECTIONAL INSTITUTE AT    | : |                          |
| ALBION,                            | : |                          |
| Defendant                          | : |                          |
| And                                | : |                          |
| BRADLEY FAULK, DISTRICT ATTORNEY   | : |                          |
| FOR ERIE COUNTY, PENNSYLVANIA, AND | : |                          |
| THOMAS CORBETT, ATTORNEY GENERAL   | : |                          |
| FOR PENNSYLVANIA,                  | : |                          |
| Additional Defendants              | : |                          |

ORDER

AND NOW, this            day of            , 2006, upon  
consideration of Plaintiff Anthony Gilmore's Application for  
Leave to Proceed In Forma Pauperis on Appeal, IT IS HEREBY  
ORDERED that the Application is GRANTED.

IT IS FURTHER ORDERED that the Clerk of Courts shall  
enter an Order which shall reflect:

1. The applicant may proceed on appeal without  
payment of cost and/or fees, or necessity of giving security  
therefore, unless prepayment has already been paid,  
in which case, it should be refunded.

BY THE COURT:

\_\_\_\_\_  
THE HONORABLE  
UNITED STATES CIRCUIT JUDGE